

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

IN THE MATTER OF)	NO. D2002-120
)	
P. SUSAN STROM,)	
a.k.a.)	FINDINGS OF FACTS,
PAULA S. STROM,)	CONCLUSIONS OF LAW,
a.k.a.)	AND FINAL ORDER
SUSAN STROM,)	ON HEARING
Applicant.)	

TO: P. Susan Strom
31628 117th Avenue SE
Auburn, WA 98092

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
J. Scott Jarvis, Deputy Commissioner, Consumer Protection
Carol Sureau, Deputy Commissioner, Legal Affairs
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

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Pursuant to chapter 34.05 RCW, title 48 RCW, WAC 10-08 and WAC 284, and after notice to all interested parties and persons, the above-entitled matter came on regularly for hearing before the Insurance Commissioner of the state of Washington on November 18, 2002 in the Office of the Insurance Commissioner, Tumwater, Washington. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony,

and had reasonable opportunity to inspect all documentary evidence. The Insurance Commissioner (Commissioner) was represented by Assistant Attorney General Melanie C. DeLeon. Susan P. Strom a.k.a. Paula S. Strom a.k.a. Susan Strom (Applicant) represented herself.

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this Order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service of this Order. (Date of service is the date this Order was placed in the mail See Declaration of Mailing below.) Further the parties are advised that pursuant to RCW 34.05.514 and 34.05.542, this Order may be appealed to Superior Court by filing a petition in the Superior Court, at the petitioner's option for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business, within 30 days of service of this Order. For further information or to obtain copies of the applicable statutes the parties may contact the Administrative Assistant to the undersigned.

NATURE OF PROCEEDING

On July 11, 2002, the Commissioner entered an Order Not To Issue against the Applicant. Said Order ordered that no insurance agent license shall be issued to the Applicant, for reasons stated therein. In response, on October 10, 2002, the Applicant properly filed her Demand for Hearing, which included her bases for such request as required by RCW 48.04.010.

Accordingly, the undersigned held a duly scheduled prehearing conference, which included all parties, on October 25, 2002. During said prehearing conference the undersigned reviewed administrative procedure to be followed at the hearing in this matter and addressed all concerns and questions of the parties. Further, at that time the parties agreed that the hearing should be scheduled to commence on November 18, 2002. Said prehearing conference was documented in Notice of Hearing entered by the undersigned on November 8, 2002, which Notice of Hearing also advised of the agreed upon hearing date.

The purpose of the hearing, which was held as scheduled on November 18, 2002, was to determine the validity, propriety and reasonableness of the OIC's aforementioned Order Not To Issue.

FINDINGS OF FACTS

Having carefully considered the evidence and argument presented at the hearing, and the documents on file herein, the presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied.
2. Good cause existed to justify an extension of time for entry of these Findings of Facts, Conclusions of Law and Final Order. Specifically, this document was the subject of substantial technical malfunction of the Presiding Officer's word processing system and the document was lost. As a result, it was necessary for the undersigned to rewrite this document in its entirety. For this reason, an extension was properly granted.
3. The Applicant is a 47 year old individual who resides in Auburn, Washington. She was licensed as a life and disability insurance agent in the state of Washington in approximately 1987 for approximately 3 to 4 years. [Testimony of Applicant.] Subsequently, she was licensed as a life and disability insurance agent in the state of Washington from May 17, 1993 until it expired on April 29, 1998. [Testimony of Applicant; Ex. 16.]
4. During the approximately 5 year period she held an agent's license from 1993 until 1998, the Applicant was appointed to represent many carriers and had one affiliation. Her affiliation was with The Solomon Corporation. The Applicant and her husband, Irvin Strom, who has been an insurance agent for two or more periods of time since 1985, are the sole owners of The Solomon Corporation. The Solomon Corporation was granted a life and disability insurance agent's license in the state of Washington on or about August 10, 1992 and this license expired on or about August 10, 1997. [Testimony of Applicant; Ex. 16.]
5. Upon receipt of the Applicant's subject application to become licensed as an insurance agent, the Commissioner conducted an investigation to determine if she was qualified to hold an agent's license. [Testimony of Commissioner's Investigator Victor E. Overholt.] As the bases for its Order Not To Issue, the Commissioner asserts that this investigation revealed that the Applicant has violated certain statutes and regulations of the state of Washington numerous times, and that by virtue of her conduct has shown herself to be untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington. The specific alleged violations are addressed below.

6. First, the OIC alleges that, in regard to a transaction concerning two Washington consumers, the Applicant acted as an insurance agent when she was not licensed to do so. In fact, in August, 2000, Irvin Strom, the Applicant's husband, visited the home of Joe Moser, then aged 87 years, and Clara Moser, then aged 85 years, residents of Puyallup, Washington. At that time the Mosers were advised by agent Irvin Strom, Applicant's husband, to cash in substantial amounts of their fixed income and mutual fund savings with WM Financial Services (WM) in order to purchase annuities from Great American Life Insurance Company (Great American). Based upon this advice, the Mosers did cash in a substantial portion of their investments and purchased these annuities. [Ex. 21 evidences a check for \$68,797.11, which represents some or all of the funds anticipated to be withdrawn from WM to purchase these annuities; Ex. 16 (Investigator's Report); Ex. 14 (Statement of Clara A. Moser); Testimony of Victor E. Overholt; Testimony of Clara A. Moser.]

7. After having second thoughts about the wisdom of their purchase, and discussing the transactions with financial consultant with WM during October and early November, 2000, the Mosers wrote to Great American requesting that their purchase of these annuities be cancelled and the funds returned to WM, and asking that Great American should not contact them to try to preserve this insurance business. [Ex. 21, pages 10, 11 and 12 (Moser's letters to Great American); Testimony of Clara A. Moser.] Subsequently, on or about October 27, 2000, Great American advised Irvin Strom's "assistant" that the Mosers wanted to cancel their annuities. [Ex. 15 (Affidavit of Carolyn Shaffer, Sr. New Business Associate with Great American.)]

8. In response to receiving the information that the Mosers were attempting to revoke their purchase of annuities, and in an attempt to conserve this insurance business for her husband, on or about November 14, 2000, the Applicant contacted the Mosers. She identified herself as "Susan" and represented that she was an investigator from Great American who was investigating the actions of WM (specifically, Mr. Steven Carpmail, the Moser's WM financial consultant) and the activities of Irvin Strom. Although she presented no business card, because she had in her possession copies of most or all of the Mosers' documents concerning the WM/annuities transactions, the Mosers believed the Applicant's representation that she was an investigator for Great American and consequently they shared detailed financial information with her. At the time of this visit, the Applicant advised Clara Moser that their WM financial consultant, who had caused the Mosers to doubt their withdrawal of their WM savings and purchase of the annuities, was just interested in his own banking products. Without disclosing to the Mosers that Irvin Strom was her husband, the Applicant further advised the Mosers that she had known Irvin Strom for years and that he was the best person to listen to with regard to the purchase of the annuities from their savings. The Applicant further advised Clara Moser that she was past the

applicable 20 day free look period and that should she attempt to cancel the annuities, she would incur surrender charges. [Ex. 14; Ex. 16; Testimony of Clara A. Moser; Testimony of Victor E. Overholt.]

9. As a result of the Applicant's advice, on November 14, 2000, the Mosers executed letters to Great American advising that they had further considered their transactions and had decided to keep their annuity policies and advising that none of their funds previously paid to Great American should be sent to WM. [Ex. 14, page 4 (Moser's letter to Great American); Testimony of Clara A. Moser; Testimony of Victor E. Overholt; Ex. 21.]

10. Great American had not authorized the Applicant to represent it and had no knowledge of her above activities with regard to the Moser situation. [Ex. 15 (Affidavit of Carolyn Shaffer).]

11. In her activities concerning the Mosers, the Applicant advised them concerning their purchase, and specific terms of, their insurance policies. It is undisputed, and it is here found, that during the period relevant to the above activities concerning Joe and Clara Moser, the Applicant did not hold an insurance agent's license. Further, by representing herself to be an investigator for Great American, and by not revealing that she was in fact the wife of agent Irvin Strom who had sold them the annuities, the Applicant willfully deceived the Mosers. In so doing, she demonstrated that she is incompetent, untrustworthy and a source of injury and loss to the public.

12. Second, the OIC alleges that on May 11, 2002, the Applicant completed a "Prospective Agent's Application & Profile" to become an agent for Great American, and, although she certified therein that all the information contained in the application was true and complete, she did provide false answers to two of those questions. In fact, on May 11, 2002, the Applicant completed a "Prospective Agent's Application & Profile to become an agent for Great American. [Ex. 2.] On page 1 of said Application, the Applicant identifies states that she is, and based upon this statement and her testimony at hearing, it is here found that she is, an owner, partner, director or officer of The Solomon Corporation.

13. The aforereferenced Prospective Agent's Application & Profile required the Applicant to answer nine questions designed, as stated therein, to *assist the Company in selecting reputable, trustworthy Representatives to sell and promote our products*. Question No. 2 asked: *Are you now or have you ever been the subject of any lawsuit, claim, investigation or proceeding alleging breach of trust or fiduciary duty, forgery, fraud, or any other act of dishonesty?* The Applicant answered No to this question. Question No. 9 asked: *At any time during the past 10 years have you, or any business in which you were an owner, partner,*

officer or director, been involved in any regulatory, civil or criminal matters not disclosed above? The Applicant answered No to this question. At the conclusion of the Application, the Applicant's signature certified as follows: *I certify that the information contained herein is true and complete to the best of my knowledge and belief.*

14. At the time that the Applicant certified to the information in the aforementioned Prospective Agent's Application & Profile, she was aware that both she, her husband and The Solomon Corporation had had a civil judgment entered against them less than nine months previously. Specifically, Case No. Y 104855 was filed in June 2001 in the King County District Court, Aukeen Division. In that case, the plaintiff Wanda L. David, who is currently 89 years of age, claimed that in November 1999 she paid Irvin Strom \$995. to prepare a Living Trust Agreement for her, but after collecting her check never contacted her again until March 29, 2000 when he left an outline of a revocable living trust on her back porch. After Mr. Strom refused to refund his mother's money, Mr. Lincoln T. David, the plaintiff's son, assisted his mother in filing a claim in the abovereferenced King County District Court against "The Solomon Corporation and Irv Strom and Susan Strom, Defendants." [Ex. 5 (court documents); Testimony of Lincoln T. David, Ms. David's son.] On August 28, 2001, after trial, judgment in this case was entered in favor of the plaintiff and against "The Solomon Corporation and Irv Strom and Susan Strom, Defendants." Further, on the date which the Applicant completed the subject Prospective Agent's Application & Profile, the Applicant was aware that a balance was still owed on this judgment; indeed, the full amount of the judgment still remains unpaid [Ex. 5 (court documents and Certification of Judge); Testimony of Lincoln T. David.]

15. At the time that the Applicant certified to the information in the aforementioned Prospective Agent's Application & Profile, she was aware that The Solomon Corporation, of which, as found above, the Applicant and her husband are the sole owners, was also the subject of a complaint filed February 15, 2001 with the Insurance Commissioner concerning the above matter involving Wanda L. David.

16. Further, at the time that the Applicant certified to the information in the aforementioned Prospective Agent's Application & Profile, she was aware that she was specifically named in Case No. 92-2-03442-0 in Spokane County Superior Court. In that case, the state of Washington sued her and other parties and on July 25, 1997 the Court entered judgment against them by Amended Consent Decree as to Defendants Irv and Susan Strom and the Marital Community Comprised Thereof. [Ex. 12 (court documents).] Although the Applicant testified that she was aware of this case, she stated that she did not believe it was specifically against her or involving her as other than a "Jane Doe" to her husband and therefore not within the contemplation of Question Nos. 2

and 9; this testimony is not credible. [Testimony of Applicant; Testimony of Assistant Attorney General Owen F. Clarke Jr.]

17. Given the existence of Wanda L. David's civil case against her and The Solomon Corporation and given her complaint before the Insurance Commissioner which specifically named The Solomon Corporation, the Applicant willfully responded falsely to both Question Nos. 2 and 9 in the subject Prospective Agent's application & Profile. Further, given the existence of the abovereferenced Spokane County Civil Case No. 92-2-03442-0 and the ensuing judgment entered against her, the Applicant willfully responded falsely to both Question Nos. 2 and 9 of the Prospective Agent's Application & Profile. Further, by this activity, the applicant demonstrated herself to be incompetent, untrustworthy and a source of injury and loss to the public.

18. Third, the Commissioner alleges that, in a 1994 transaction involving Washington residents Vernon F. Brazeau and Faye E. Brazeau, the Applicant signed their application for annuity insurance representing herself to be the writing agent. The Commissioner further alleges that, at the time the Applicant signed this Application, she knew that her husband Irvin Strom had actually sold and completed the application but was not appointed to represent that company and that she was appointed to represent that company. In fact, in the spring of 1994, Irvin Strom, the Applicant's husband, went to the home of Vernon F. Brazeau, then 77 years of age, and Faye E. Brazeau, then 76 years of age. Faye E. Brazeau died on February 4, 2002. At that time, Irvin Strom consulted with the Brazeaus and sold them a living trust. [Ex. 9 (copies of trust documents).] Shortly thereafter, when he returned to their home to present the trust documents for their signatures, Irvin Strom solicited Vernon and Faye Brazeau for the purchase of annuities from Federal Home Life Insurance Company, and completed their applications for these annuities, which were issued to them shortly thereafter. [Testimony of Don L. Gesch; Declaration of Vernon F. Brazeau; Ex. 9 (Federal Home Life Insurance Company Request to Transfer Funds and other documents concerning purchase of the Federal Home Life Insurance Company Premier Annuity Plus Bonus Plan).]

19. During Irvin Strom's solicitation of the Brazeaus for these annuities, and during the time he completed the Brazeaus' applications for these annuities and the sale was transacted, the Applicant was not with Irvin Strom. In fact, Irvin Strom is the only Strom who the Brazeaus have ever met and the only Strom ever to be in their home, where all pertinent insurance activities took place. The Brazeaus purchased the annuities from Irvin Strom, not the Applicant. [Testimony of Don L. Gesch; Ex. 9 (Declaration of Vernon Brazeau).]

20. During his consultation, solicitation and sale of these annuities, Irvin Strom was not appointed to represent Federal Home Life Insurance Company.

Because Irvin Strom was not appointed to represent Federal Home Life Insurance Company he could not sign the application as the writing agent. At that time, however, the Applicant was appointed as an agent to represent Federal Home Life Insurance Company. The Applicant willfully signed the subject Application [Ex. 7] and other related documents [Ex. 19], knowing that she was falsely representing herself to be the writing agent.

21. In consideration of this matter, the undersigned has made careful effort to separate the history and activities of the Applicant's husband from the history and activities of the Applicant herself. The history and activities of the Applicant's husband should not, and have not, been considered by the undersigned to be relevant to the decision herein. In making the decision herein, the undersigned should, and has, solely considered the history and activities of the Applicant herself, whether her activities were done in association with her husband, with other individuals or alone.

22. Witnesses for the OIC included Janet L. Furlong (by telephone), Lincoln T. David (by telephone), Jeff Smith (by telephone), Don L. Gesch (by telephone) and Victor E. Overholt (in person). Janet L. Furlong is an employee of Great American Life Insurance Company in Cincinnati, Ohio. Ms. Furlong presented her testimony in a clear, detailed and credible manner with no apparent biases. Lincoln T. David of Arlington, Washington is the son of Wanda L. David. Mr. David has been intimately involved in this insurance transaction involving his elderly mother, who is now in an assisted living facility. Mr. David presented his testimony in a clear, detailed and credible manner with no apparent biases. Jeff Smith of Renton, Washington is an insurance agent and Managing General Agent who had worked with Irvin Strom and who had considered appointing the Applicant. Mr. Smith presented his testimony in a detailed, clear and credible manner, with no apparent biases. Don L. Gesch of Tacoma, Washington has been the son-in-law of Vernon F. Brazeau and Faye E. Brazeau for 28 years and, together with his wife Jeanne F. Gesch, their daughter who holds their Power of Attorney, has been intimately involved in their business affairs. It is here found that Vernon F. Brazeau was unable to testify due to his advanced age of over 85 years, together with health problems including severe diabetes, severe heart problems, colon and prostate cancer and Faye E. Brazeau is now deceased. [Testimony of Don L. Gesch.] Mr. Brazeau presented his testimony in a clear and credible manner with no apparent biases. Victor E. Overholt, an investigator employed by the Office of the Insurance Commissioner, appeared in person. Mr. Overholt presented his testimony in a clear and credible manner with no apparent biases.

23. Witnesses for the Applicant included the Applicant herself (in person). She presented her testimony in a clear and organized manner. She also appears to be a very intelligent and motivated individual. Having been an insurance agent in

Washington on two previous occasions, she has substantial knowledge of the insurance business. Although at times she presented credible testimony, it cannot be found that her testimony was consistently credible, most particularly concerning the more critical factual issues involved in this case. Other witnesses for the Applicant included Owen Clarke Jr., an Assistant Attorney General in Spokane, Washington (by telephone); William Ledford of Tacoma, Washington (by telephone); and Roberta Reeves of Auburn, Washington (by telephone). Mr. Clarke presented his testimony in a clear and credible manner with no apparent biases. It is noted, however, that Mr. Clarke testified only as to whether, and on what terms, the Applicant was specifically named in the aforereferenced Spokane County Superior Court case. While his testimony was credible, he did not recall much of this case, and did not recall that he participated in the settlement negotiations therein. At any rate, his testimony was not particularly relevant to the issues in this proceeding. While Mr. Ledford and Ms. Reeves also presented their testimony in a credible manner, with no apparent biases, Mr. Ledford testified that although he believed Irvin Strom and the Applicant to be "a good Christian man and lady," he had previously only observed Irvin Strom selling living trusts and insurance and had never observed or worked with the Applicant in her own insurance transactions. Ms. Reeves appeared as a character witness for the Applicant. The only contact Roberta Reeves had with the Applicant was through teaching church classes with her. Ms. Reeves testified that although she had had dinner with the applicant a few times, she had no knowledge of the Applicant's business practices or what she does in her work.

Given all of the facts set forth above, the Commissioner's Order Not To Issue, No. D 2002-120, is reasonable under the circumstances and should be upheld.

CONCLUSIONS OF LAW

1. Pursuant to Finding of Fact No. 2 above, good cause existed to justify extension of the statutory deadline for entry of the Findings of Facts, Conclusions of Law and Final Order herein and said extension was properly granted, as contemplated by RCW 34.05.461(8)(a).
2. Pursuant to Findings of Fact 6 through 11 above, the Applicant willfully acted as an insurance agent when she was not licensed to do so, provided Washington consumers with misleading information as to their insurance transactions and deceived them by representing that she was an investigator for Great American Life Insurance Company. In so doing, the Applicant willfully violated RCW 48.17.060(1) and RCW 48.30.040. Further, by this activity, the Applicant demonstrated herself to be, and was so found to be, incompetent or untrustworthy, or a source of injury and loss to the public as contemplated by RCW 48.17.530(1)(h).

3. Pursuant to Finding of Fact Nos. 12 through 17 above, on May 11, 2002, the Applicant completed a "Prospective Agent's Application & Profile" to become an agent for Great American. Although she certified therein that all the information contained in the application was true and complete, she did willfully provide false answers to two of those questions. In so doing, the Applicant willfully violated RCW 48.30.040. Further, by this activity, the Applicant demonstrated herself to be, and was so found to be, incompetent, or untrustworthy, or a source of injury and loss to the public as contemplated by RCW 48.17.530(1)(h).

4. Pursuant to Findings of Fact Nos. 18 through 20 above, in a 1994 transaction involving Washington residents Vernon F. Brazeau and Faye E. Brazeau, the Applicant signed their application for annuity insurance representing herself to be the writing agent. At the time the Applicant signed this Application, she knew that her husband, Irvin Strom, had actually sold and completed the application but was not appointed to represent that company and that she was appointed to represent that company. In so doing, the Applicant willfully violated RCW 48.30.040 and RCW 48.30.210. Further, by this activity, the Applicant demonstrated herself to be, and was so founded to be, incompetent, or untrustworthy, or a source of injury and loss to the public as contemplated by RCW 48.17.530(1)(h).

5. Pursuant to Title 48 RCW, and specifically RCW 48.17.060(1), RCW 48.17.070, RCW 48.30.040, RCW 48.30.210, RCW 48.17.150(1)(f) and RCW 48.17.530(1)(b) and (h), the Insurance Commissioner's Order Not To Issue, No. D2002-120, ordering that no insurance agent's license should be issued to the Applicant, P. Susan Strom a/k/a Paula S. Strom a/k/a Susan Strom, should be confirmed.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law, to the effect that the Applicant, P. Susan Strom a/k/a Paula S. Strom aka Susan Strom, has violated various provisions of the Insurance Code as contemplated by RCW 48.17.070, RCW 48.17.150(1)(f) and RCW 48.17.530(1)(b) and has demonstrated herself to be incompetent or untrustworthy or a source of injury and loss to the public as contemplated by RCW 48.17.530(1)(h), and to the effect that Order No. D2002-120 should be confirmed,

IT IS HEREBY ORDERED that the Insurance Commissioner's Order that no insurance agent's license should be issued to the Applicant, P. Susan Strom a/k/a Paula S. Strom a/k/a Susan Strom, is upheld.

This Order is entered pursuant to RCW 34.05, WAC 10-08-210, Title 48 RCW and Chapter 284 WAC.

This Order is entered at Olympia, Washington, this 26 t" day of March, 2003.

PATRICIA D. PETERSEN
Chief Hearing Officer and Presiding Officer